

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LUPERIO NARANJO, SR.,

Petitioner,

-v-

UNITED STATES OF AMERICA,

Respondent.
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: 16-cv-7386 (JSR) (SLC)

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: 13-cr-351-1 (JSR)

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: ORDER

JED S. RAKOFF, U.S.D.J.

On December 16, 2019, the Honorable Sarah L. Cave, United States Magistrate Judge, issued a Report and Recommendation in the above-captioned matter recommending that petitioner Luperio Naranjo, Sr.'s (1) motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 (the "Habeas Motion") and (2) subsequent motion to amend the Habeas Motion be both denied. Petitioner has failed to file any objection to the Report and Recommendation,¹ and, for that reason alone, has waived any right to review by this Court. See Thomas v. Arn, 474 U.S. 140, 147-48 (1985); Mario v. P & C Food Markets, Inc., 313 F.3d 758, 766 (2d Cir. 2002); Spence v. Superintendent, Great Meadow Corr.

¹ Naranjo's supervised release term commenced on November 24, 2017. On March 8, 2019, he made a request to visit his family in Ecuador, during his supervised release, from May 15, 2019 to June 27, 2019, which this Court granted. Based on the information available to the Court, he has failed to return back to the United States, effectively fleeing the country in violation of his supervised release conditions.

Facility, 219 F.3d 162, 174 (2d Cir. 2000). In abundance of caution, the Court has reviewed the underlying record de novo and finds itself in complete agreement with Magistrate Judge Cave's excellent Report and Recommendation.

Accordingly, the Court hereby adopts the Report and Recommendation, and, for the reasons therein, dismisses the petition with prejudice. In addition, because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253. Moreover, the Court certifies that any appeal from this Order would not be taken in good faith, as petitioner's claim lacks any arguable basis in law or fact, and therefore permission to proceed in forma pauperis is also denied. See 28 U.S.C. § 1915(a)(3); see also Seimon v. Emigrant Savs. Bank (In re Seimon), 421 F.3d 167, 169 (2d Cir. 2005). The Clerk to enter judgment.

SO ORDERED.

Dated: New York, NY
January 13, 2020


JED S. RAKOFF, U.S.D.J.